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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,075	09/09/2003	Dennie J.M. van den Heuvel	SYN-0031D1	9183
38427	7590	11/03/2004	EXAMINER	
MARK R. BUSCHER			CHOI, FRANK I	
P.O. BOX 161			ART UNIT	
CATHARPIN, VA 20143			PAPER NUMBER	

1616

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/657,075	Applicant(s) VAN DEN HEUVEL ET AL.	
	Examiner Frank I Choi	Art Unit 1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 06-056700 in view of Patel et al. (US Pat. 6,248,363) and Wear et al. (US Pat. 4,640,020).

JP 06-056700 discloses a method of preparing a spherical pellet by adding the medicine, crystalline cellulose, water and other components into an agitator/chopper (paragraphs 0008-0026). It is disclosed that extrusion did not result in uniform sphericity and that spraying involved a long process and for fine grains had bad coating effectiveness (paragraphs 0004,0005).

Patel et al. discloses methods of preparing pellets by combining solvent, such as water, pharmaceutically active agent, such as zolpidem or salt thereof, and microcrystalline cellulose and drying through utilizing appropriate drying processes such as vacuum evaporation, heating etc. (Column 6, lines 7-11, Column 36, lines 40, Column 45, lines 40-68, Column 46, lines 16-62).

Wear et al. discloses a process and apparatus for drying granular or nodular products, such as pharmaceuticals using microwave energy which is especially suitable for drying temperature sensitive products (Column 1, lines 5-16, Column 2, lines 38-40). It is disclosed that nitrogen gas is used to purge the moisture driven from the product (Column 11, lines 34-53).

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The difference between the prior art and the claimed invention is that the prior art does not expressly disclose the formation of pellets by combining a solvent and pharmaceutical agent, carrier to form a wet mixture, wherein the solvent is not combined by spraying, stirring, chopping or both to form pellets and drying. However, the prior art amply suggests the same as processes for forming pellets are disclosed by the cited prior art including the process described above. As such, it would have been well within the skill of one of ordinary skill in the art to modify the prior art as desired with the expectation that the process would form suitable pharmaceutical pellets.

Therefore, the claimed invention, as a whole, would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, because every element of the invention has been collectively taught by the combined teachings of the references.

Conclusion

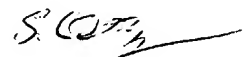
A facsimile center has been established in Technology Center 1600. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is (703) 872-9306.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Choi whose telephone number is (571)272-0610. Examiner maintains a flexible schedule. However, Examiner may generally be reached Monday-Friday, 8:00 am – 5:30 pm (EST), except the first Friday of the each biweek which is Examiner's normally scheduled day off.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Gary Kunz, can be reached at 571-272-0887. Additionally, Technology Center 1600's Receptionist and Customer Service can be reached at (571) 272-1600.

FIC

October 30, 2004



SABIHA QAZI, PH.D.
PRIMARY EXAMINEE